



Chapter 4

FILING REQUIREMENTS FOR PERSONAL SERVICE CONTRACTS

The Washington State Legislature has maintained a continuing interest in personal service contract activities and has passed laws requiring specific oversight and reporting requirements. Therefore, once an agency has made the decision to seek outside consulting assistance, it is advisable to review the current requirements for filing personal service contracts to determine if they apply to the proposed contract or amendment.

Current requirements, as stated in the Introduction, are set forth in chapter 39.29 RCW and in the *State Administrative and Accounting Manual*, chapter 15, issued by the Office of Financial Management.

Agencies subject to the filing requirements include any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, higher education institutions, and correctional institutions. Excluded from the competition and filing requirements of chapter 39.29 RCW are entities such as the legislative branch of state government, local government, port districts, educational service districts, and other governmental entities which are not listed herein.

Categories of contracts and amendments, which require filing with the Office of Financial Management, are discussed in detail in the applicable sections of this chapter. For easy reference, two summary charts of filing requirements—one for state agencies and one for institutions of higher education—are included at the end of this chapter.

4.1 What Is a Contract Filing?

“Filing” for the purposes of this manual means delivering a personal service contract package to OFM for public inspection by interested parties and for OFM review and/or approval. A contract filing consists of submission of three documents:

1. Personal Service Contract Filing Face Sheet, SF-110
2. Copy of the contract or amendment
3. Justification explaining the procurement

4.1.1 Personal Service Contract Filing Face Sheet, SF-110

This form provides summary information regarding the contract or amendment being filed. The filing sheet is available both in hard copy and electronic format. When completing a hard copy form, all copies white, pink, and green of the form are submitted to OFM. After processing the filing, OFM returns the green sheet to the originating agency and forwards the pink copy to the Department of Revenue.

Hard-copy SF-110 forms may be ordered by the pad, 15 per pad, through the Department of General Administration, Materials Management Center (Central Stores), Commodity Code Number 7540-005-003. The current version is dated 7/98. Submit filings on the current version of the form only. The Customer Service Center phone number is (360) 902-7410.

When submitting an electronic filing, all three sections of the filing are to be submitted electronically—the SF-110 form, the justification, and the contract or amendment. Sending just the SF-110 form electronically does not constitute an electronic filing. Attachments to the contract, such as the contractor’s proposal, may be submitted separately in hard copy format. OFM will join the documents. For electronic filings, the “signed” form is returned electronically to the originating agency and forwarded electronically to the Department of Revenue.

You may download the electronic form at:

<http://www.ofm.wa.gov/contracts/filing.htm> A sample electronic filing form is shown on the next page.

FILING AND APPROVAL REQUIREMENTS FOR PERSONAL SERVICE CONTRACTS

ELECTRONIC PERSONAL SERVICE CONTRACT FILING FACE SHEET [NOTE: This form is only to be used when filing contracts electronically. It is not to be submitted as a hard copy filing.]		OFM USE	Filing Serial Number Date Received Type of Filing Late? <input type="checkbox"/> Yes <input type="checkbox"/> No
1	Agency Number:	8	Type of Contract/Amendment <input type="checkbox"/> Competitive, \$20,000 or more <input type="checkbox"/> Sole Source, \$5,000 - \$19,999 <input type="checkbox"/> Sole Source, \$20,000 or more <input type="checkbox"/> Emergency, \$5,000 or more <input type="checkbox"/> Management-type Contract <input type="checkbox"/> Amendment Greater than 50% of original contract amount or substantial change to scope of work. (Contract, when amended, is \$5,000 or more)
1a	Agency Contract Number:	9	Justification Attached? Complete justification is required in all categories in Box 8. <input type="checkbox"/> Yes <input type="checkbox"/> No
2	Agency Name:	10a	Contract Status: <input type="checkbox"/> New <input type="checkbox"/> Amendment
3	Agency Contact:	10b	Previous Filing Serial No.:
4	Phone No.:	11	Start Date of Contract/Amendment:
5	Contractor Selected (name & address)	12	Contract Completion Date:
6	UBI Number (Dept. of Revenue Registration Number):	13	Purpose of Contract/Amendment (If amendment, state the purpose of the amendment and purpose of the original contract)
7a	Check applicable box below if any individual(s) working on this contract is: <input type="checkbox"/> A current Washington State Employee (If checked, complete 7b, 7c, 7d & 7e) <input type="checkbox"/> A former Washington State Employee within the past two years. Termination Date: (If checked, complete 7b, 7c & 7d)	14a	Contract Value: \$
7b	Employee Name:	14b	Amendment Value: \$
7c	Agency where currently or previously employed:	14c	Total Contract Value: \$ <div style="text-align: right;">(14a + 14b)</div>
7d	Position Title:	15	Funding: State General Funds \$ Federal Funds \$ Other Funds: \$
7e	Executive Ethics Board Approval Note: Executive Ethics Board approval is required prior to start of work for contracts awarded to current state employees when the contract is either sole source or competitively awarded but only one proposal was received. If a current state employee, has Executive Ethics Board approval been received by contractor? <input type="checkbox"/> Yes <input type="checkbox"/> No If "NO" is checked, explain why.	16	Sub-Object Code:
		17	Final Written Report? <input type="checkbox"/> Yes <input type="checkbox"/> No
20	Agency individual responsible for compliance with legally established contract filing requirements. NAME _____ Signature: _____ Date: _____ I certify by my signature above that the attached contract/amendment, if unsigned, is a true and final copy of the agreement between the parties.	OFM USE	<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED <input type="checkbox"/> REVIEWED Signature _____ Date _____

DIRECTIONS FOR ELECTRONIC FILING OF PERSONAL SERVICES CONTRACTS:

Electronic Processing Steps:

- **Agency** prepares three filing documents in electronic media (preferably WORD 7):
 - SF-110, Electronic Personal Service Contract Filing Face Sheet
 - Contract or amendment.
 - Justification or explanation
- **Agency** attaches these documents to an e-mail note (preferably Microsoft Mail) and sends to OFM at the following e-mail address:
 - psc.filings@ofm.wa.gov
- **OFM** receives filing
 - Reviews or approves; when processed, assigns filing serial number
 - Returns electronic SF-110 to agency, as an attachment to e-mail, indicating review or approval signature
 - Sends electronic SF-110 to Dept of Revenue as an attachment to e-mail

4.1.2 Copy of the Contract or Amendment

Either a signed or unsigned certified copy of the contract or amendment may be submitted with the filing. An unsigned copy may be submitted if it is certified to be a final version. The SF-110 form includes a "certification" statement in Block 20 that states: "I certify by my signature above that the attached contract/amendment, if unsigned, is a true and final copy of the agreement between the parties." When Block 20 is signed, the contract or amendment attached constitutes a certified copy.

Filing a certified copy allows the agency to acquire the contractor's signature concurrent with OFM processing, which is helpful for contracts or amendments subject to the ten working day filing period.

Attachments or exhibits to the contract document should also be included with the contract filing. For example, the scope of work may be primarily described in the contractor's proposal. If it is, the proposal should be included with the filing. When filing a contract electronically, please also indicate if you are forwarding a hard copy of the proposal or any other exhibit.

4.1.3 Documented Justification

Personal service filings must be submitted with a comprehensive explanation of the contract purpose, background and procurement process. THE JUSTIFICATION MUST BE ABLE TO WITHSTAND PUBLIC, LEGISLATIVE AND EXECUTIVE SCRUTINY. Therefore, the document should be written as if it were being read by many others outside of your agency, for it may be.

Always ensure that you include the specific information required for the justification based on the category of contract or amendment you are filing. For example, information for a competitively procured contract is different than that required for a sole source contract, and information justifying an amendment to a contract is different than for a new contract. The specific information to include in the justification for each filing category is set forth in Section 4.3 of this chapter.

4.2 General Filing Information

4.2.1 Where to Send/Deliver Filings

Contract filings may be submitted to OFM a variety of ways:

Electronic Filings: psc.filings@ofm.wa.gov

Hard Copy Filings: PO Box 43123
Olympia, WA 98504-3123

Hand Delivered Filings: 6639 Capital Boulevard
Tumwater, WA

If you have questions on sending or delivering filings, you may contact the OFM Contract Office at psc.filings@ofm.wa.gov or call Diana Vanderhoof at (360) 664-7732.

4.2.2 Filing Periods

Three different filing periods currently apply to contracts and amendments filed with OFM, as noted in the following table.

Filing Period	Filing Category
Contract is filed with OFM no later than the start date of services.	<ul style="list-style-type: none"> Competitively solicited contracts of \$20,000 or more and their amendments. [NOTE: Exceptions are competitive contracts, which also fall in the first two bulleted categories in the following box.]
Contract is filed with OFM a minimum of ten working days prior to the proposed start date of services.	<ul style="list-style-type: none"> Competitive contracts of \$20,000 or more and their amendments for the following categories: management consulting, organizational development, marketing, communications, employee training and employee recruiting. Amendments to sole source or competitive contracts that result in the contract being greater than 50 percent of the original contract value, or which constitute a substantial change in the scope of work, when those contracts, as amended, are in the amount of \$5,000 or more. All sole source contracts of \$5,000 or more and their amendments.
Contract is filed with OFM within three working days of start of services or contract execution, whichever is sooner.	<ul style="list-style-type: none"> Emergency contracts of \$5,000 or more and their amendments. Amendments awarded solely for the purpose of decreasing the total dollar amount of the contract.

The term “working days,” for filing purposes, excludes Saturdays, Sundays and state holidays.

For contracts subject to the ten working day filing period, the earliest start date is the tenth working day after, but not including, the date of filing, subject to OFM review or approval. The agency may also start work any time after the tenth working day, subject to OFM review or approval. The contract start date can fall on a weekend or holiday after the tenth working day if the agency desires.

To minimize confusion about the start date of contracts and amendments subject to the ten working day filing period, the contract or amendment should include the following or a similar provision:

Under the provisions of chapter 39.29 RCW, this personal service contract/amendment is required to be filed with the Office of Financial Management (OFM). No contract required to be so filed is effective and no work shall be commenced nor payment made until ten (10) working days following the date of filing, and, if required, until reviewed and/or approved by OFM. In the event OFM fails to approve the contract, the contract shall be null and void.

The filing period provides time for OFM processing, but is primarily a public review period. If OFM review is completed prior to the ten-day period, the effective start date remains ten working days from the filing date.

OFM may need to adjust the start date beyond the ten working days from initial contract filing, if the filing is incomplete when first submitted. If the agency provides any additional information requested by OFM prior to the end of the ten working days, an adjustment will not be necessary. It is the agency's responsibility to verify that OFM approval has been granted prior to starting work.

For competitive contracts or amendments that are not subject to the ten working day filing period, the contract start date is the working day that the contract is filed or any day thereafter.

4.2.3 OFM Processing of Filings

The day the contract is filed, the "clock" starts. If received in hard-copy form, the SF-110 form is date stamped the day of arrival. If electronically filed, the filing date is the date on the electronic message to OFM. If the contract is faxed, the fax date is the filing date. (That is, the count begins if the fax copy is submitted with all the required documentation and the "original" documents are received in a timely manner thereafter.)

Once received, OFM reviews the filed document for completeness and accuracy, and for content and substance. If there are questions on the contract submittal or if it is incomplete, the OFM Contract Office contacts the agency by mail (preferably electronically), by fax or by telephone for clarification and/or to request additional information. The agency then either submits additional written explanation or, for simple issues, provides the needed information over the telephone. Contracts and amendments may fall into more than one filing category. Filings that fit into both a "review" category and an "approval" category, are processed as "approval" filings.

When the justification has been analyzed and the filing is considered complete, the OFM Contracts Office signs for review or approval, as applicable, for contracts of less than \$100,000. If the value of the contract filed is \$100,000 or greater, or an amendment to such a contract, additional review is conducted by OFM. (This is true even if a zero cost amendment is filed, but the contract itself is in an amount of \$100,000 or more.) For those filings a copy is sent to the OFM Budget Division for review. Once the Budget Division review is complete, a final decision is made by OFM and the filing is signed.

After review, the agency will receive either a written or electronic response. The green copy of the SF-110 form is returned when a hard copy is received, or an electronic SF-110 is returned when the contract is filed electronically.

OFM disapproves contracts on an exception basis. In general, OFM works with agencies to assist in meeting their contracting needs. On occasion, there may be a disagreement as to the approach on a contract or the need for the services. If this is the case, OFM will contact the agency to advise them of any concerns. Depending upon the issue or circumstances, more information may be required from the agency to resolve the issue. When that is not a feasible solution, the filing is disapproved. In instances when a sole source contract is submitted that OFM thinks should be competitively procured, the agency can conduct the competitive process and re-file the new competitive contract.

When the decision to disapprove a contract is made, OFM provides the reasons for disapproval to the agency in written format.

4.2.4 “State Funded” Contracts and Amendments

Effective June 11, 1998, institutions of higher education file only contracts or amendments that are “state funded.” The term “state funded,” as used in chapter 39.29 RCW, is defined as “funded with dollars which are: (1) appropriated by the Washington State Legislature and/or (2) allotted by the agency.” The definition covers many sources of funding, but it would not include private or donated funds and may not include some local or federal funding.

If a contract or amendment awarded by an institution of higher education is funded by both state and non-state funds, e.g., donated funds, it is subject to the filing requirements only if the state-funded portion equals or exceeds \$5,000 for a sole source contract or \$20,000 for a competitive contract.

Institutions of higher education are subject to the other requirements of chapter 39.29 RCW, but are granted this exception for filing purposes.

4.2.5 Contract Amendments

Generally, if a contract is subject to filing with OFM, its amendments are also subject to filing.

Contract amendments to be filed are those which:

1. Increase or decrease the maximum contract cost;
2. Revise the contract scope of work; and/or,
3. Revise the period of performance.

Decrease amendments are to be filed with OFM within three working days of start of services or execution, whichever is sooner, and are designated as informational filings.

Contract amendments that are **not** required to be filed with OFM include the following:

1. Amendments which result in administrative changes to the contract such as address changes, budget line item adjustments which do not revise the total contract cost, change of project manager, etc.
2. Amendments awarded at the end of the contract term solely for the purpose of extending the contract period for two months or less. This provision applies only once, per contract. It is not intended to authorize multiple short-term time extensions to a contract.

Some contract amendments are subject to review by OFM and others are subject to OFM approval. Generally, if the contract is subject to review, its amendment is also subject to review, and if a contract is subject to approval, its amendment is subject to approval.

Exceptions occur with amendments noted in the following two examples:

1. A competitive contract for technical research services in the amount of \$20,000 is subject to OFM review. If the contract is amended by \$12,000, the amendment is subject to approval. The amendment exceeds 50 percent of the original contract amount and is required to be approved by OFM.
2. A contract is competitively awarded for \$5,000 and is not required to be filed. The contract is amended by \$3,000. The amendment is subject to filing and OFM approval, since it exceeds 50 percent of the original contract amount and since the total contract amount is greater than \$5,000. (If an amendment of \$1,000 is awarded to a contract of \$1,500, it would not be subject to filing since the contract total is still less than \$5,000.)

4.2.6 Contract Total

For filing purposes, the total dollar amount of the contract or amendment includes the fee and the amount for any expenses or taxes authorized for reimbursement under the contract.

4.2.7 Late Filing Requests

What happens when you are looking through a contract file and discover that a contract has not been filed with OFM? We hope this will not happen, but if it does, the contract should be filed, but will be designated as a “late filing.” A late filing may occur in three instances:

1. Contracts or amendments subject to the ten-working day filing period are filed with a requested start date that is less than ten working days from the date of filing.
2. Competitively solicited contracts of \$20,000 or more, or their amendments, subject only to OFM review, are filed after the start date of services.
3. Emergency contracts are filed more than three business days after the start of work or execution of the contract.

Late filings are to be accompanied by an explanation to OFM describing the reason for the late filing. OFM will designate the filing “late,” as part of the review process.

Failure to file contracts as required in chapter 39.29 RCW in a timely manner may subject the responsible state officer or employee to a \$300 civil penalty. A consultant who knowingly violates chapter 39.29 RCW in seeking or performing work under a personal service contract may also be subject to a civil penalty of \$300 or 25 percent of the amount of the contract, whichever is greater.

4.3 Which Contracts and Amendments Must be Filed?

Personal service contracts and amendments which must be filed for review and/or approval are described in this section. Some of the categories overlap; therefore, it is necessary to be familiar with all of them to ensure that contract filings are submitted with complete and accurate justification, as applicable to the filing category.

Section 4.8 of this chapter includes two filing charts to provide a quick reference for filing categories—one applicable to state agencies and one for institutions of higher education. Again, institutions of higher education file only contracts that are state funded. All other agencies file contracts or amendments regardless of fund source.

4.3.1 Competitively Solicited Contracts/Amendments of \$20,000 or More

Personal service contracts and their amendments, in the amount of \$20,000 or more, which have been competitively solicited, are subject to either **review** or **approval** by OFM, depending upon the type of service or dollar amount of the amendment.

OFM **review** is required for most competitive contracts in this category. However, the Washington State Legislature has taken special interest in the categories of services highlighted below and has required advance **approval** by OFM for the services when the contract is \$20,000 or more. Amendments to these contracts are also subject to filing and to OFM approval.

Management Consulting – Includes, but is not limited to, services to assist management of the agency with operation or management of the agency or unit or division of the agency and services which may impact agency policy, regulatory issues or services that have broad agency implications. This also includes services to assist management with program development, implementation, coordination or evaluation; and services which result in operational or managerial recommendations, assessments, reports and studies. It also includes studies requested by the Legislature and feasibility studies.

Management consulting also includes services for strategic planning, goal setting, needs assessment, business process re-engineering, facilitators for staff functions or focus groups, harassment and related investigations, mediation and lobbying.

Also includes services for the design, development and/or implementation of major agency information processing or telecommunications systems; re-engineering of major information technology systems; quality assurance on or evaluation of such systems; and development of information technology strategic plans.

Organizational Development – Includes, but is not limited to, services to study, analyze or review the organizational structure, framework or culture of the agency or divisions within the agency, and services implementing the recommendations of such a study or effort. Organizational development also includes services which provide recommendations to management on enhanced efficiencies, productivity and process improvements, and quality control in the organization.

Marketing – Includes, but is not limited to, services to develop or implement a marketing or advertising plan or campaign; services related to marketing an agency's service; public relations or media services; market research and development; and services provided to promote the agency or a program of the agency.

Also included are public involvement services; trade development and assistance; development of market research or customer satisfaction surveys and/or assessment of survey results; conference or trade show coordination; fund raising; and related services.

Communications – Includes, but is not limited to, services for design, development or oversight of audio/video media productions, brochures, manuals, newsletters, maps, signs, posters, annual reports, etc.; technical writing/editing; speech writing; grant writing; graphic design services; development of communications strategies; and other related services procured by an agency to inform the public or other governmental agencies about a subject.

This category **excludes** services related to installation of computer system linkage and telecommunications systems.

Employee Training – Includes training services procured to meet employee training needs, managerial training, employee counseling services, guest speakers and curriculum development.

The only employee training services exempt from this designation are those for purchased service training. Purchased service training is that which is offered to all or most employees on a continual and recurring basis (more than six times per year), satellite training, or standard information technology training related to hardware or software in use by an agency. It is the intent of the Legislature that employee training contracts be submitted to OFM for approval, with the exception of those that clearly fit the definition of purchased service training.

Contracts awarded to provide training to local governments or other public or private entities, other than agency clients, are not included in the "employee training" filing category, but are still to be treated as personal services and filed. Training provided directly to agency clients is considered a client service contract.

Employee Recruiting – Services performed by a professional search firm to assist in recruitment of a successful candidate to fill a vacant position in an agency.

4.3.1.1 Filing Competitive Contracts and Amendments

Again, competitive contracts of \$20,000 or more, and their amendments, must be filed with OFM either for review or approval. If the contract is subject to review, services may begin the working day the contract is filed. If the contract is subject to approval, work may not begin until at least the tenth working day following, but not including, the filing date, subject to OFM approval. Ten working days excludes Saturdays, Sundays, legal state holidays and the date the contract is filed with OFM.

The filing consists of a completed “Personal Service Contract Filing Face Sheet” (SF-110 Rev. 7/98, see Section 4.1.1), a signed or certified copy of the contract or amendment and the justification as explained in the next section.

4.3.1.2 Competitive Filing Justification

Documented justification which must accompany each filing of a competitive contract should be thorough enough to minimize questions from those outside the agency.

JUSTIFICATION FOR A COMPETITIVE CONTRACT:

- 1. Specific Problem or Need.** Identify and fully describe the specific problem, requirement or need which the contract is intended to address and which makes the services necessary. Also include an explanation as to how the agency determined the services are critical or essential to agency responsibilities or operations and/or whether the services are mandated or authorized by the Legislature.
- 2. Other Public Resources.** Explain how the agency concluded: (a) that sufficient staffing or expertise is not available within the agency to perform the services, and (b) that other qualified public resources are not available to perform the services more efficiently or more cost effectively.
- 3. Competitive Process.** Provide a thorough description of the competitive solicitation process including all of the following:
 - How many solicitation documents were issued and the name(s) of the publication(s) in which an advertisement was published. (If the agency is using the Internet exclusively to publish its solicitation documents, the number of documents sent will not be applicable.).
 - The names of the firms responding with proposals.
 - A description of the evaluation process (e.g. an evaluation committee(s) scored the responses, a selection committee made the award decision, etc.).
 - The basis on which the contractor was selected, such as price, technical strength, experience/qualifications or any combination of these or other criteria.
 - How it was determined that costs were fair and reasonable or within the competitive range.

JUSTIFICATION FOR AN AMENDMENT TO A COMPETITIVE CONTRACT:

- 1. Specific Problem or Need.** Identify and fully describe the specific problem, requirement or need which the amendment is intended to address and which makes the services necessary. Also include an explanation as to how the agency determined the services are critical or essential to agency responsibilities or operations and/or whether the services are mandated or authorized by the Legislature.
- 2. Other Public Resources.** Explain how the agency concluded: (a) that sufficient staffing or expertise is not available within the agency to perform the services, and (b) that other qualified public resources are not available to perform the services more efficiently or more cost effectively.
- 3. Contract Amendment.** State the rationale for executing an amendment rather than competitively procuring the services and awarding a new contract. Explain why the services under the proposed amendment were not included in the terms of the original contract or solicitation document. Include any conditions that have changed since contract award and other applicable information which clearly justifies the decision to amend the contract.

If the contract amendment results in the contract value exceeding 50 percent of the original contract amount or substantially changing the scope of work, follow the justification requirements of Section 4.3.3 in this chapter.

4.3.2 Sole Source Contracts and Amendments

Sole source contracts and their amendments are those which have not been competitively procured. Since absence of competition is rare for personal services, agencies should carefully consider both public and private sector resources before making a decision to pursue sole source award. Sole source procurements are improper if only for the administrative convenience of the agency. If the competitive process is **clearly** not feasible, sole source contracts may be entered into, but with strict adherence to legislatively authorized criteria.

For a sole source procurement to be appropriate, the contractor must provide professional or technical expertise of such a unique nature that the contractor is clearly and justifiably the only practical source of the service. The justification must hinge on the unique nature of the service, the unique expertise or ability of the consultant to meet the agency need, time constraints not caused by agency delay, or sole availability at the location required.

Sole source contracts of less than \$5,000 may be directly negotiated, or agencies may choose to solicit by telephone to determine the best selection.

Sole source personal service contracts and their amendments, in the amount of \$5,000 to \$19,999, or those which cumulatively equal or exceed \$5,000 or more with the same contractor in a fiscal year, are to be filed with OFM and are subject to **review** by OFM.

Sole source contracts of \$20,000 or more and their amendments, which independently, or when combined with other sole source contracts between the agency and the contractor during the fiscal year, are filed for OFM **approval**.

In addition, amendments to sole source contracts of \$5,000 or more which result in the contract value exceeding 50 percent of the original contract amount or which substantially change the scope of work of the contract, are subject to **approval** by OFM. In that instance, follow the justification requirements for amendments that are greater than 50 percent of the original contract amount in Section 4.3.3.

The dollar range for filing is determined based on either the individual contract amount or a cumulative total of sole source contracts awarded to the contractor by an agency during the fiscal year. Only sole source contracts awarded to a single contractor during the fiscal year are considered in the cumulative total. Competitive personal service contracts with the same contractor, purchased service contracts or client service contracts with the contractor are not included in this cumulative count.

The amount paid to a contractor in a fiscal year is not a factor in determining the filing threshold. The maximum amount of the contract, including amendments, awarded to the contractor is considered. Filing totals are based on contracts awarded per agency.

If a sole source personal service contract is awarded to a contractor by an agency for \$4,500 in one fiscal period, and it is amended by \$500 in another fiscal period, the amendment is subject to filing. This is because the total amount of the sole source contract is now \$5,000, even though the amount actually awarded during the fiscal year is only \$500.

4.3.2.1 Advertising a Sole Source Contract and Sample Sole Source Legal Notice

Personal service contracts of \$20,000 or more, which the agency has determined are appropriate for sole source procurement, are to be advertised in a statewide or regional newspaper for a minimum of one day. Advertisements may also be placed in other media. The advertising requirement is based on the individual contract amount of \$20,000 or more and is not a cumulative total of sole source contracts with a contractor in a fiscal year.

The sole source advertisement should include at a minimum:

- The name of the agency;
- A description of the services contemplated for sole source award;
- The proposed period of performance for the services;
- Information as to how an interested party may contact the agency; and
- The deadline for them to make such contact.

If the name of the proposed contractor is included in the advertisement – which is helpful but not required – the named individual or firm does not need to respond to the advertisement. A sample sole source advertisement is shown on the next page.

**LEGAL NOTICE
SOLE SOURCE ADVERTISEMENT**

(Sample Legal Notice Announcing Potential Sole Source Award for Sole Source Contracts of \$20,000 or More)

The _____ (Agency Name) _____ contemplates awarding a sole source contract to _____
_____ for a _____ month period to provide

_____.

[NOTE: Include some information on basis for sole source decision, such as follow-on nature of work, unique expertise, etc.]

The contract will be issued on or about _____.

Offerors contemplating the above requirements are required to submit capability statements detailing their ability to meet the state's requirements within five (5) business days of this announcement. In the absence of other qualified sources, it is the state's intent to make a sole source award of the contract. For further information contact:

Agency Name _____
Attention: _____
Address _____
City, State & Zipcode _____

Telephone: _____
Fax: _____
E-Mail: _____

If a formal response is received to the advertisement from other than the proposed contractor, and the response indicates the responding firm is qualified to provide the service, competitive solicitation must be conducted. If an agency can demonstrate that the proposed contractor is the only qualified and available entity to provide the service, although another firm or individual responded, the contract can be filed with OFM with complete explanation as to how this sole source conclusion was reached.

Exemptions from the advertising requirement for sole source procurements include:

- Contracts for services where selection of the contractor is based on a personal accomplishment or characteristic, such as guest speakers, performers and artists. This does not apply, however, to contracts for trainers, facilitators, etc.
- Contracts for services where the funding source mandates with whom the agency shall contract and, therefore, the agency does not have discretion in making the award decision. Examples include requirements set forth in statute (RCWs), budget provisos, federal grant awards, etc.
- Contracts that OFM determines are inappropriate for advertising based upon written request from the agency.
- Sole source contracts under \$20,000.

4.3.2.2 Filing a Sole Source Contract or Amendment

Sole source contracts and their amendments must be filed with OFM a minimum of ten working days prior to the proposed start date. The earliest start date then is the tenth working day after, but not including, the date of filing. Ten working days exclude Saturdays, Sundays, legal holidays and the date the contract is filed with OFM.

A sole source contract filing must include a completed Personal Service Contract Filing Face Sheet (SF-110, Rev. 7/98, see Section 4.1.1), a signed or certified copy of the contract or amendment, and a justification explaining the sole source decision.

4.3.2.3 Sole Source Filing Justification

Sole source contracts and amendments subject to filing requirements must be accompanied by documentation thorough enough to minimize questions from those outside the agency. The sole source justification must present a comprehensive explanation of the circumstances surrounding the sole source decision.

JUSTIFICATION FOR A SOLE SOURCE CONTRACT:

- 1. Specific Problem or Need.** Identify and fully describe the specific problem, requirement or need which the contract is intended to address, and which makes the services necessary. Also include an explanation as to how the agency determined the services are critical or essential to agency responsibilities or operations and/or whether the services are mandated or authorized by the Legislature.
- 2. Other Public Resources.** Explain what effort has been taken to conclude: (a) that sufficient staffing or expertise is not available within the agency to perform the service, and (b) that other qualified public resources are not available to perform the service more efficiently or more cost effectively.
- 3. Competition Not Appropriate.** Explain how the agency concluded that competitive procurement was not appropriate in this instance.
- 4. Sole Source Criteria.** Include a detailed explanation of the items below which are relevant to the sole source decision:
 - (a) Unique nature of the service and/or the unique qualifications, abilities or expertise of the contractor to meet the agency needs. Unique service would be those which are highly specialized or one-of-a-kind. However, other factors which may be considered include past performance, cost-effectiveness (learning curve) and/or follow-up nature of the required services.
 - (b) Any other special circumstances which may be relevant such as confidential investigations, copyright restrictions, or time constraints. If time constraints are applicable, identify when the agency was on notice of the need for the services, the entity that imposed the constraints, explain the authority (if not obvious) of that entity to impose them, and provide the timelines within which work must be accomplished.

(c) Sole availability in the location required. If the proposed contractor is the only source available in the geographical area, state the basis for this conclusion and the rationale for limiting the size of the geographical area selected.

- 5. Reasonableness of Costs.** Since competition was not used as the means for procurement, explain how the agency concluded that the costs, fees or rates negotiated are fair and reasonable. Either make a comparison with comparable contracts, use the results of a market survey or employ some other appropriate means calculated to make such a determination.

If the contract is being filed based on a cumulative sole source total of contracts awarded to the contractor in a fiscal year, include the total amount of the other sole source contracts and amendments awarded during the fiscal year to this contractor.

- 6. Sole Source Advertisement.** Sole source contracts of \$20,000 or more are required to be advertised in either a statewide or regional newspaper. (See preceding Section 4.3.2.1 for additional information on the sole source advertisement.) Advertisements may also be published in other media as appropriate. The advertising requirement is based on the estimated contract amount, and is not a cumulative total of sole source contracts with a contractor in a fiscal year.

Include the name(s) of the newspaper(s) in which the advertisement was published, the date(s) of the advertisement(s) and the name(s) of those responding. If no responses were received, please so indicate in the sole source justification. If one or more responses are received, explain how the agency concluded the contract is appropriate for sole source award. List any other potential contractors that were contacted through other means and explain why these firms could not perform the services.

If the sole source contract is exempt from advertising, clearly identify the basis for the exemption and include a copy of the documentation which provides the authority for the exemption, as applicable.

JUSTIFICATION FOR AN AMENDMENT TO A SOLE SOURCE CONTRACT:

- 1. Specific Problem or Need.** Identify and fully describe the specific problem, requirement or need which the contract is intended to address and which makes the services necessary. Also include an explanation as to how the agency determined the services are critical or essential to agency responsibilities or operations and/or whether the services are mandated or authorized by the Legislature.
- 2. Other Public Resources.** Explain what effort has been taken to conclude: (a) that sufficient staffing or expertise is not available within the agency to perform the service, and (b) that other qualified public resources are not available to perform the service more efficiently or more cost effectively.

- 3. Sole Source Rationale.** State the rationale for executing an amendment to the existing sole source contract rather than competitively procuring the services and awarding a new contract. Explain why the services under the proposed amendment were not included in the original contract. Include any conditions that have changed since contract award and include other applicable information that clearly justifies the decision to amend the contract.

State whether the new services are within the scope of the original contract. Also, identify whether the rates are the same as those negotiated under the original contract and explain any increases.

If the contract amendment results in the contract value exceeding 50 percent of the original contract amount or substantially changing the scope of work, follow the justification requirements in Section 4.3.3.

4.3.3 Contract Amendments Cumulatively Exceeding 50 Percent of the Original Contract Value and/or Which Substantially Change the Scope of Work of the Original Contract

Large or substantial contract amendments fall into a separate filing category subject to OFM approval. This requirement was implemented to ensure large amendments were being entered into only as appropriate and not as a means of avoiding competitive procurement. Therefore, contract amendments that singly or cumulatively exceed 50 percent of the value of the original contract or that substantially change the original scope of work in the contract or in the solicitation document must be filed with OFM. This applies to both competitive or sole source contracts which, when amended, total \$5,000 or more.

The agency will need to determine if the scope of the original contract would significantly change under the terms of the proposed amendment. Substantial changes to a contract are those that represent a significant change in quantity, duration, nature or cost of the work. If so, the changes must be submitted to OFM for approval. It may also be appropriate to procure the service under a new contract rather than to amend an existing contract if the service is substantially different.

An example of a substantial change which could be appropriately executed as a contract amendment is a contract wherein the work is broken into phases, and approval of additional phases (through contract amendment) is subject to satisfactory completion of a previous phase, and such work phasing is clearly set forth in the solicitation document or original contract. Another example is an amendment to a contract that includes an option to extend the work at the discretion of the agency (e.g., extending a two-year contract for one additional year).

When a personal service contract is subject to filing with OFM, most amendments to that contract are also subject to filing. Thus, amendments which add funds to a contract for less than 50 percent of the original contract value are still required to be filed if the contract was filed. Amendments which are greater than 50 percent of the original contract value and/or which substantially change the scope of work require filing with OFM and OFM **approval**.

The following three examples may assist in clarifying this filing category.

Example 1

*A competitive contract for research services in the amount of \$20,000 is filed for OFM review, but not approval. A contract amendment adding \$10,000 to the contract would be required to be filed with OFM, for OFM review. However, a contract amendment for \$10,500 would be required to be filed with OFM and **approved** by OFM, since it is greater than 50 percent of the original contract value.*

Example 2

A competitive contract for research services in the amount of \$10,000 is not subject to filing with OFM. (Competitive contracts under \$20,000 do not require filing.) However, if the contract is amended by \$5,001, the amendment would be subject to filing with OFM and approval by OFM, since it is an amendment that is greater than 50 percent of the original contract value. An amendment to this contract for \$5,000 would not be subject to filing since the contract was not subject to filing and the amendment is not more than 50 percent of the original contract value.

Example 3

A competitive contract for management consulting services in the amount of \$20,000 is subject to filing with OFM and approval by OFM. A proposed amendment which adds \$1,000 to the contract would be subject to filing and OFM approval, since the original contract was subject to filing and OFM approval. A proposed amendment in the amount of \$11,000 would be subject to filing and OFM approval for two reasons: (a) the amendment is revising a competitive, management consulting contract of \$20,000 or greater which was filed and subject to approval; and (b) the amendment is greater than 50 percent of the original contract value for a contract that—when revised—is \$5,000 or more.

4.3.3.1 Filing an Amendment that Exceeds 50 Percent of the Original Contract Value and/or Which Substantially Changes the Scope of Work of the Original Contract

Amendments in this category must be filed with OFM at least ten working days prior to the proposed start date. The start date is the tenth working day after, but not including, the date of filing. Ten working days excludes Saturdays, Sundays and legal state holidays.

A filing in this category must include a completed Personal Service Contract Filing Face Sheet (SF-110, Rev. 7/98, see Section 4.1.1), a signed or certified copy of the contract or amendment and the justification.

4.3.3.2 Filing Justification

Contract amendments in this category are to be accompanied by documentation thorough enough to minimize questions from those outside the agency.

JUSTIFICATION FOR AN AMENDMENT EXCEEDING 50 PERCENT OF THE ORIGINAL CONTRACT VALUE OR A SUBSTANTIAL CHANGE TO THE SCOPE OF WORK:

- 1. Specific Problem or Need.** Identify and fully describe the specific problem, requirement or need which the amendment is intended to address and which makes the amendment necessary. Include an explanation as to how the agency determined that the services under the proposed amendment are critical or essential to agency responsibilities or operations and/or whether the services are mandated or authorized by the Legislature.
- 2. Other Public Resources.** Explain how the agency concluded: (a) that sufficient staffing or expertise is not available within the agency to perform the service, and (b) that other qualified public resources are not available to perform the service more efficiently or more cost effectively.
- 3. Procurement Method.** State whether the original contract was competitively procured or awarded as a sole source, when the contract was awarded and the cumulative dollar amount of the original contract and any subsequent amendments prior to this amendment.
- 4. Changes Since Award.** Explain why the service under the proposed amendment was not included in the terms of the original contract or in the solicitation document. Include any conditions that have changed since contract award and other information which supports the decision to amend the contract.
- 5. Why Amendment Preferred.** State the rationale for executing an amendment to the existing contract rather than competitively procuring the services and awarding a new contract. Include whether the new services are **within** the scope of the original contract or solicitation document and how executing the amendment can most effectively achieve the agency's purpose.
- 6. Contractor's Qualifications.** Provide an explanation of the contractor's qualifications, abilities or expertise to meet the agency's specific needs for the services under the amendment.
- 7. Reasonableness of Costs.** Include how the agency determined that the costs, fees or rates negotiated for the amendment are fair and reasonable, since competitive bids were not received for the services under the amendment. Generally, the rates should be the same as those in the original contract. If they are not, include an explanation for the increased pricing.

4.3.4 Emergency Contracts

Another exception to competitive procurement is an emergency contract, which is awarded to resolve an emergent situation. An “emergency” means a set of unforeseen circumstances beyond the control of the agency that either presents a real, immediate threat to the proper performance of essential state functions or which may result in material loss or damage to property, bodily injury or loss of life if immediate action is not taken.

Emergency contracts in the amount of \$5,000 or greater, and their amendments, must be filed with OFM. Such contracts and amendments must be filed for review within three working days following the date of contract execution or commencement of work, whichever occurs first.

The filing must include a completed Personal Service Contract Filing Face Sheet (SF-110, Rev. 7/98, see Section 4.1.1), a copy of the contract or amendment and documented justification of the emergency condition.

4.3.4.1 Filing Justification

Documented justification which must accompany each emergency filing is to be thorough enough to minimize questions from those outside the agency.

JUSTIFICATION FOR AN EMERGENCY CONTRACT:

1. **Nature of Emergency.** Explain the nature of the emergency and all relevant circumstances associated with the emergency.
2. **Health or Safety Threat.** Describe the threat to the health or safety of individuals, property or essential state functions if immediate action was not taken. Provide an estimate of the potential material loss or damage.
3. **Alleviate or Eliminate Emergency.** Explain how the services of the contractor alleviated or eliminated the emergency. Describe the consequences of not taking the emergency action and the risks associated with inaction.
4. **Contractor's Qualifications.** Describe the contractor's qualifications, experience and background to provide the emergency service and the basis on which this contractor was selected over other qualified firms.
5. **Reasonableness of Costs.** Explain how the agency concluded that costs negotiated were fair and reasonable since competition was not conducted.

4.4 Annual Report to OFM

OFM is required to maintain a publicly available list of personal service contracts awarded by state agencies. Contracts and amendments filed with OFM throughout the fiscal year will automatically be included on the list. Those contracts and amendments which were not subject to filing are to be reported to OFM at the end of the fiscal year. This report is not to include contracts which are exempt under RCW 39.29.040. The exemptions are further explained in Section 4.6 of this chapter.

Since June 11, 1998, filing requirements for state agencies and institutions of higher education have been different based on fund source. Therefore, the annual report requirements are also different as shown below:

State agencies report competitively awarded personal service contracts and amendments in the amount of \$5,000 or more but less than \$20,000. (Exceptions are amendments to competitive contracts that are greater than 50 percent of the original contract value, which may have been filed in this dollar range, and are therefore not required to be reported.)

Institutions of higher education report:

1. Sole source contracts and amendments of \$5,000 or more which are funded by sources **other than state funds**.
2. Competitive personal service contracts and amendments in the amount of \$5,000 or more but less than \$20,000, **all fund sources**. (Exceptions are amendments to competitive contracts that are greater than 50 percent of the original contract value, which may have been filed in this dollar range, and are therefore not required to be reported.)
3. Competitively awarded contracts of \$20,000 or more and their amendments funded by sources **other than state funds**.

Information for the annual report is to be submitted to OFM in the format prescribed by OFM. At a minimum, the following information should be maintained:

- Name and address of the contractor.
- Type of contract (new or an amendment).
- Contract or amendment start and completion dates.
- Dollar amount of the original contract and each amendment.
- Description of scope of work.
- Type of procurement (sole source or competitive).
- Employment status of contractor (if employed by Washington State within the past 24 months, indicate agency name and previous position).
- Sub-object code.
- Fund source.

4.5 Quarterly Report to OFM – Architectural/Engineering Services

Agencies including institutions of higher education which award architectural and engineering (A/E) agreements must submit quarterly reports to OFM on the A/E agreements and addenda awarded during the period. The reports are due the 15th of each month following the end of the quarter (e.g., October 15 for the period July through September, January 15 for the period October through December, etc.). If the 15th falls on a Saturday, Sunday or state holiday, the report will be due the next working day. The Department of General Administration submits the report on behalf of the agencies for which they contract. OFM provides the form on which the report should be submitted.

Quarterly reports for architectural and engineering services must include the following information:

- Name of the awarding agency.
- Name and address of the contractor.
- Whether the activity is a new agreement or an addendum.
- Start and end dates of the agreement or addendum.
- Dollar amount of the agreement or addendum (if an addendum, include the revised contract total).
- Description of scope of work.
- Whether the contract was competitively procured per chapter 39.80 RCW.

4.6 Exemptions from Competition and Filing Requirements

When a personal service contract falls under one of the categories described below, it is exempt from the competitive procurement and filing requirements of chapter 39.29 RCW. However, agencies may establish internal policies or procedures which would require competition of these categories of contracts in certain instances. Funding source requirements may also subject a contract to competitive bid. If in doubt about whether a contract falls under one of the exemptions, contact OFM or your agency's Assistant Attorney General.

4.6.1 Contracts of Less than \$5,000

Personal service contracts with a total value of less than \$5,000 are exempt. However, two factors are to be considered under this exemption:

1. Competition is not required for personal service contracts under \$5,000, but it is advisable to use a competitive process whenever possible.
2. Agencies are required to track personal service contracts under \$5,000, since sole source contracts awarded to a contractor are considered cumulatively by fiscal year for filing purposes. When the cumulative total of sole source personal service contracts and amendments awarded to a contractor in a fiscal year reaches \$5,000 or greater, the contract or amendment which brings the total to, or over, the \$5,000 threshold is subject to filing, regardless of its individual amount. Any subsequent sole source contracts and

amendments awarded to that contractor in the fiscal year are, of course, also subject to filing.

Contracts competitively awarded to the contractor in the fiscal year are not included in this count.

4.6.2 Rates Set by Public Hearings

This exemption applies to contracts awarded to companies that furnish a service where the tariff is established by the Washington Utilities and Transportation Commission or other public entity. This exemption is limited to contracts where the fee is pre-established by tariff and does not apply to all contracts awarded to such companies.

4.6.3 Intergovernmental Agreements

This exemption applies to contracts between Washington State agencies or between a Washington State agency and either a unit of local government, another state or the federal government. These are called intergovernmental or interagency agreements, and they are governed by the Interlocal Cooperation Act, chapter 39.34 RCW.

A sample Interagency Agreement which is used between state agencies is included as Appendix B to this booklet.

4.6.4 Services for a Standard Fee

This exemption applies to contracts in which a standard fee for services is established in advance by the contracting agency and when a like contract for equivalent services is available to qualified applicants, as services are required and funding is available. The underlying premise to this exemption is that competitive bidding would not garner a better price. Standard fees may include hourly or daily rates or similar fee-for-service rates. Contracts awarded by an agency to doctors or dentists who charge a fixed rate to examine state medical claimant files would fit this exemption.

The intent of the exemption is to allow multiple qualified firms that have agreed to a rate established by the agency in advance to provide the same service, generally on a rotating basis, in order to ensure equal and fair distribution of services. Annual advertising is recommended as an effective way to guarantee equal opportunity to qualified entities when contracting under this exemption.

4.6.5 Collaborative Research

This exemption applies to contracts for services that are necessary for conduct of collaborative research where prior approval is granted by the funding source. The exemption may be used when an agency is applying for research or grant funds and names a firm or individual in the written application or proposal to perform specific services. Upon approval from the funding source and receipt of funds, the resultant contract with the firm or individual named in the grant application is not required to be filed with OFM.

This exemption is only to be used when the agency initiates the activity by applying for specific funding and names the contractor(s) in the application. The exemption is not applicable when the funding source initiates the activity and requires the agency to use a specific contractor. In that instance, the contract is a sole source, and if the contract is \$20,000 or more, the sole source advertisement may be waived.

4.6.6 Client Services

Personal services provided directly to agency clients are also exempt. RCW 39.29.006(2) defines client services as:

. . . services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

Thus, clients are generally members of the public, external to state government, who have social, physical, medical, economic or educational needs. These individuals may need government assistance to meet those needs. Client service contracts are those entered into for professional or technical services with a contractor for delivery of direct services to agency clients.

Clients from the agency viewpoint are those for whom the agency has statutory responsibility to service, protect or oversee. For example, clients of the Department of Social and Health Services would include nursing home patients, welfare recipients, institutionalized individuals, etc. Clients of the Department of Veterans Affairs include veterans and widows of veterans. Clients of the Department of Corrections include inmates. Clients of the Department of Labor and Industries include injured workers and private employers. Clients of the Employment Security Department include unemployed and displaced workers and veterans. Students at institutions of higher education may be considered clients for contracts where the contractor provides direct services to students, e.g. counseling, guest lecturers for students and/or the public, student workshops, etc.

Examples of the types of services provided to state agency clients are:

- Drug abuse treatment
- Job counseling
- Medical, dental and mental health treatment
- Foster care
- Job training programs
- Physical and occupational rehabilitation
- Day care services

The contractor must be providing direct service to the client to be designated a client service contract. Direct service means the contractor is in direct, face-to-face contact with individual clients as part of providing the client service.

Contracts for development of programs or media campaigns which will ultimately benefit the client, but which, under the contract scope, do not currently provide a direct service to the client, are not considered client service contracts. For example, development of a training program which would ultimately be offered to clients is not a client service contract. The contract that provides the training to the client is the client service contract.

Client service contracts are to be processed in accordance with each agency's internal controls. Good business practice suggests that agencies use a competitive process to award these contracts, even though they are exempt from the competitive procurement requirements of chapter 39.29 RCW.

In instances where the client service designation is not clear, it is advisable not to categorize the contract as such.

4.6.7 Architectural and Engineering Services

Contracts for architectural and engineering services are exempt from personal service contract procurement and filing requirements, since they are subject to the competitive acquisition requirements of chapter 39.80 RCW. You may contact the Department of General Administration, Division of Engineering and Architecture, at (360) 902-7272 for more information about contracting for these services.

State agencies, however, are required to submit quarterly reports to OFM on architectural and engineering agreements and addenda awarded for the three-month period. (See Section 4.5 for more information.)

4.6.8 Expert Witness Contracts

This exemption applies to contracts securing the services of an expert witness for the purpose of litigation. By definition, an expert witness has specialized training or knowledge, and the individual or firm is selected for this expertise to aid the attorney in representing the client. The expert may also provide case consultation, research, legal services or other related types of activities, but the purpose of the contract ultimately must include the possibility of expert testimony if the case goes to trial.

4.6.9 Bank Supervisory Agreements

Contracts for bank supervision are authorized by RCW 30.38.040. This exemption applies to contracts entered into by the Department of Financial Institutions to conduct examinations of branches of out-of-state banks that are operating in Washington State.

4.6.10 Exemptions by the Director of OFM

The Director of OFM may exempt specific contracts or classes or groups of contracts from competitive procurement and filing.

If an agency determines that competitive procurement is not appropriate for a particular contract or category of service, the agency may request that OFM exempt that contract or group of contracts. This exemption is not meant to be used in lieu of filing sole source contracts.

The agency should forward a request to the Director of OFM, well in advance of the proposed contract start date. At a minimum, the request must include:

- A description of the type of service for which an exemption is requested.
- An explanation as to why an exemption is considered appropriate.
- Reason(s) why competitive procurement is not appropriate or cost-effective.
- An explanation of the effect or impact of not having an exemption.

OFM will provide the agency with a timely written response. In the event OFM does exempt a particular service or category of contracts from competitive procurement, other affected agencies will be notified.

This exemption is not to be used in lieu of awarding and filing a sole source contract. The exemption is only for unusual or exceptional situations, where standard contracting and filing processes may not apply.

4.7 Civil Penalty

RCW 39.29.020 provides for a civil penalty for failure to comply with the requirements of chapter 39.29 RCW. The state officer or employee executing personal service contracts is responsible for compliance with the requirements. A state officer or employee who knowingly violates chapter 39.29 RCW is subject to a civil penalty of \$300.

A contractor who knowingly violates chapter 39.29 RCW in seeking or performing work under a personal service contract is subject to a civil penalty of \$300 or 25 percent of the amount of the contract, whichever is greater.

The State Auditor is responsible for auditing violations of chapter 39.29 RCW, and the Attorney General is responsible for prosecuting violations.

4.8 Filing Charts

The two filing charts on the next pages summarize the current personal service contract filing requirements – one is applicable to state agencies only and the other is applicable to institutions of higher education only.

PERSONAL SERVICE CONTRACT FILING CATEGORIES
(State Agencies - Exclusive of Institutions of Higher Education)

PERSONAL SERVICE CONTRACTS/AMENDMENTS	DOLLAR THRESHOLD FOR FILING	OFM REVIEW OR APPROVAL	FILING PERIOD
SOLE SOURCE Contracts and Amendments (singly or cumulatively awarded to a contractor in a fiscal year period by an agency)	\$ 5,000 - \$19,999 \$20,000 or more	Review* Approval	10-working day advance filing 10-working day advance filing
EMERGENCY Contracts and Amendments	\$ 5,000 or more	Review*	3-working days from date of execution or start of work, whichever is sooner
COMPETITIVE Contracts and Amendments (not included in the categories below)	\$20,000 or more \$20,000 or more	Review* Approval	Work may start on or after the working day filed with OFM. 10-working day advance filing
AMENDMENTS to competitive or sole source contracts that result in the contract amount being greater than 50 percent of the original contract value and/or amendments which constitute a substantial change in the scope of work. <i>NOTE: Amendments are required to be filed for personal service contracts that are filed. When an amendment falls into this category, however, it is also subject to approval.</i>	\$ 5,000 or more (Contract, when amended, equals \$5,000 or more)	Approval	10-working day advance filing

* If contract amendments in these categories result in the contract exceeding 50 percent of the original contract amount or if they make a substantial change in the scope of work, the amendment is subject to OFM approval, rather than to review. Such amendments should be filed under the >50 percent amendment category.

NOTES: 1) Contract amendments which are not required to be filed with OFM include: a) those which result in administrative changes only to the contract such as address changes, staffing changes, budget line item adjustments which do not revise the total contract cost, etc.; and b) those awarded at the end of the contract term, solely for the purpose of extending the contract period for two months or less. This provision applies only once, per contract. It is not intended to authorize multiple short-term time extensions. 2) State agencies are to report their competitively awarded contracts in the range of \$5,000 to \$19,999 to OFM at the end of each fiscal year.

PERSONAL SERVICE CONTRACT FILING CATEGORIES

(Institutions of Higher Education Only)

PERSONAL SERVICE CONTRACTS/AMENDMENTS	DOLLAR THRESHOLD FOR FILING	FUND SOURCE	OFM REVIEW OR APPROVAL	FILING PERIOD
SOLE SOURCE Contracts and Amendments (singly or cumulatively awarded to a contractor in a fiscal year period by an agency)	\$5,000 - \$19,999	State Funds * Non-State Funds	OFM Review ** Filing not required	10-working day advance filing Report at end of fiscal year
	\$20,000 or more	State Funds* Non-State Funds	OFM Approval Filing not required	10-working day advance filing Report at end of fiscal year
EMERGENCY Contracts and Amendments	\$ 5,000 or more	State Funds *	OFM Review **	3-working days from date of execution or start of work, whichever is sooner
		Non-State Funds	Filing not required	Report at end of fiscal year
COMPETITIVE Contracts and Amendments (<i>not included in categories below</i>)	\$20,000 or more	State Funds *	OFM Review **	Work may start on or after the working day filed with OFM.
		Non-State Funds	Filing not required	Report at end of fiscal year
COMPETITIVE Contracts and Amendments for: Management Consulting, Organizational Development, Marketing, Communications, Employee Training and Employee Recruiting	\$20,000 or more	State Funds *	OFM Approval Filing not required	10-working day advance filing Report at end of fiscal year
		Non-State Funds	Filing not required	Report at end of fiscal year
AMENDMENTS to competitive or sole source contracts that result in the contract amount being GREATER THAN 50 PERCENT of the original contract value or which constitute a substantial change in the scope of work.	\$ 5,000 or more (contract, when amended, equals \$5,000 or more)	State Funds * Non-State Funds	OFM Approval Filing not required	10-working day advance filing Report at end of fiscal year

- * State Funds for the purposes of filing means dollars which are: (1) appropriated by the Washington State Legislature, and/or (2) allotted by the agency. Non-state funded contracts and amendments in these categories and competitive contracts of \$5,000 to \$19,999 are reported to OFM at the end of each fiscal year. If a contract or amendment awarded by an institution of higher education is funded by both state and non-state funds, e.g., donated funds, it shall be subject to the filing requirements only if the state funded portion equals or exceeds \$5,000 for a sole source contract or \$20,000 for a competitive contract.
- ** If contract amendments in these categories result in the contract exceeding 50 percent of the original contract amount or if they make a substantial change in the scope of work, the amendment is subject to OFM approval, rather than to review. Such amendments should be filed under the >50 percent amendment category.

NOTES: 1) Contract amendments which are NOT required to be filed with OFM are: a) those which result in administrative changes only to the contract such as address changes, staffing changes, budget line item adjustment which do not revise the total contract cost, etc.; and b) those awarded at the end of the contract term, solely for the purpose of extending the contract period for two months or less. This provision applies only once per contract. It is not intended to authorize multiple short-term time extensions. 2) Section 4.4 lists categories of contracts which are not filed with OFM but which are submitted to OFM on an annual report at the end of each fiscal year.

